

**ENACTED TAX LEGISLATION – 2012 SESSION  
and 2011 SESSION WITH A 2012 EFFECTIVE DATE**

**General (non-emergency) effective date: August 30, 2012**

**1) ADMINISTRATIVE PROVISIONS**

**Maine Board of Tax Appeals.** The law makes the following changes to the laws governing appeals of decisions of the State Tax Assessor:

- Institutes a new 90-day process for reconsideration of assessments and decisions of the State Tax Assessor at the MRS division level. Provides the means for a taxpayer to consider that a petition for reconsideration has been denied if a decision has not been issued by MRS within 90 days of the receipt of the petition.
- Provides that a reconsidered decision of a small claims request may be appealed de novo directly to the Superior Court and that all other reconsidered decisions may be appealed de novo to either the Superior Court or the Maine Board of Tax Appeals. In addition, determinations of the Maine Board of Tax Appeals may be appealed de novo to the Superior Court.
- Eliminates the Independent Appeals Office, as created in Public Law 2011, chapter 439, and creates in its place the Maine Board of Tax Appeals, an independent, three-member board appointed by the governor. The members of the board serve three-year terms. It provides for per diem compensation to board members and outlines the powers and duties of the board, including adopting rules necessary to oversee formal appeals of decisions of the State Tax Assessor. The law provides for the transfer of personnel and funds from MRS to the Maine Board of Tax Appeals effective July 1, 2012. The law outlines the appeals procedures and authorizes an appeals conference on request of the taxpayer. A fee of no more than \$150 may be charged by the board for this appeals conference, at which the parties may present argument, testimony and evidence in support of its position. The Maine Board of Tax Appeals office includes a Chief Appeals Officer, who serves at the pleasure of the Commissioner of Administrative and Financial Services.
- Clarifies that the board may not have ex parte communication with or on behalf of any party, unless such communication is related to administrative matters.
- Provides that either the taxpayer or the assessor may appeal a decision of the board to the Superior Court. A petition for review by the Superior Court must be filed within 60 days after receipt of the board's decision; otherwise, the decision becomes final and no further review is available.

- Amends the provisions allowing for a redacted copy of certain documents to be made public so that the law complies with federal confidentiality statutes and to clarify that the dissemination of documents applies to reconsideration decisions and advisory rulings issued on or after July 1, 2012.
- Retains the taxpayer advocate as an employee of MRS, eliminating the confidentiality restrictions on the disclosure of information by the State Tax Assessor to the taxpayer advocate.
- Allows the State Tax Assessor to disclose information to the Maine Board of Tax Appeals and allows the board to disclose that information, but limits the disclosure to information that is pertinent to an appeal or other action or proceeding before the board.

Effective May 25, 2012. 36 MRSA §§ 111(1-C), 151, 151-B, 151-C(1), 151-D & 191(2), LD 1750, PL 2011, c. 694.

**Office of Tax Policy.** The law creates a new Office of Tax Policy and a new Associate Commissioner for Tax Policy within MRS. The new position reports directly to the Commissioner of Administrative and Financial Services. The existing position of Director of Econometric Research in MRS is eliminated. The new Associate Commissioner is made a member of the Revenue Forecasting Committee in the place of the State Tax Assessor who is removed from membership on the committee. The law identifies the qualifications and duties of the new Associate Commissioner for Tax Policy. Applies retroactively to December 10, 2011. 36 MRSA §§ 112 & 191(2)(F), LD 1903, PL 2011, c. 655, Part I.

**Tax simulation model.** The law requires the Department of Administrative and Financial Services, Bureau of Revenue Services to undertake a pilot project to develop and evaluate a tax simulation model for state dynamic fiscal analysis. It allows the bureau to enter into a memorandum of understanding with the University of Maine for the development and evaluation of the pilot project model and it provides an exemption from certain confidentiality requirements related to taxpayer information in order to complete this work. It requires the bureau and the Office of Fiscal and Program Review to submit a joint report with findings and recommendations to the Joint Standing Committee on Taxation by November 15, 2012. LD 1535, RES 2011, c. 114.

**Working waterfront report.** The law repeals the requirement for MRS to submit to the Legislature a biennial report on the value of working waterfront land and sales of the land. 36 MRSA § 1140-B(2), LD 1749, PL 2011, c. 644.

**Estate tax report.** The law repeals the requirement for the Department of Agriculture, Food and Rural Resources and MRS to jointly submit an annual report to the Legislature on federal estate tax changes affecting Maine farmland. Effective August 30, 2012. LD 1749, PL 2011, c. 644.

**Electronic filing report.** The law repeals a requirement that MRS submit a report to the Legislature regarding electronic filing mandates. Effective August 30, 2012. LD 1749, PL 2011, c. 644.

## **2) GENERAL**

**Conformity.** The law updates references to the United States Internal Revenue Code of 1986 contained in the Maine Revised Statutes, Title 36 so that they refer to the United States Internal Revenue Code of 1986 as amended through December 31, 2011. The bill primarily affects the State's income tax laws. Applies to tax years beginning on or after January 1, 2011 and for any prior tax year as specifically provided by the United States Internal Revenue Code of 1986. 36 MRSA § 111(1-A), LD 1748, PL 2011, c. 530.

## **3) INDIVIDUAL INCOME TAX**

**Tax Rate Schedules – enacted in 2011.** For tax years beginning on or after January 1, 2013, the existing individual income tax rates have been changed as follows: the 2% bracket is changed to a 0% bracket, the 4.5% and 7% brackets are collapsed into a 6.5% bracket and the 8.5% bracket is reduced to a 7.95% bracket. 36 MRSA § 5111. LD 1043, PL 2011, c. 380, Part N.

**Standard Deduction – enacted in 2011.** For tax years beginning on or after January 1, 2012, the law conforms the Maine individual income tax standard deduction amounts to the federal standard deduction amounts. 36 MRSA § 5124-A. LD 1043, PL 2011, c. 380, Part N.

**Personal Exemption – enacted in 2011.** For tax years beginning on or after January 1, 2013, the law conforms the Maine individual income tax personal exemption amount to the federal personal exemption amount. 36 MRSA § 5126. LD 1043, PL 2011, c. 380, Part N.

**Military pay earned outside Maine.** The law exempts from Maine income tax active duty military pay earned outside of Maine for service performed pursuant to written military orders. Applies to tax years beginning on or after January 1, 2014. 36 MRSA § 5122(2)(LL), LD 1746, PL 2011, c. 657, Part M.

**Military survivor benefits.** The law provides that an amount claimed as an income subtraction modification for military survivor benefits may not include in that amount employee retirement benefits for which pension deduction modification is claimed. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 5122(2)(HH), LD 1749, PL 2011, c. 644.

**Retirement plan benefits.** The law amends the income tax subtraction modification for certain retirement benefits to raise the \$6,000 limit to \$10,000. The subtraction

modification is expanded to include all federally taxable pension income, annuity income and individual retirement account distributions, except pick-up contributions for which a deduction has been allowed. Applies to tax years beginning on or after January 1, 2014. 36 MRSA §§ 5122(2)(M) & 5122(2)(M-1), LD 1746, PL 2011, c. 657, Part R.

**Disaster assistance.** The law exempts from Maine income tax compensation and business income if the only presence in Maine during the taxable year is for the sole purpose of providing disaster relief. Applies to tax years beginning on or after January 1, 2013. 36 MRSA §§ 5102, 5142(8-B) & 5211(16-B), LD 1836, PL 2011, c. 622.

**Alternative Minimum Tax – enacted in 2011.** For tax years beginning on or after January 1, 2012, the Maine alternative minimum tax for non-corporate taxpayers is repealed. The minimum tax credit remains in effect for unused credit amounts. 36 MRSA § 5203-C. LD 1043, PL 2011, c. 380, Part N.

**Tax Additions – Lump-sum and early retirement plan distributions – enacted in 2011.** For tax years beginning in 2012, the Maine additional taxes on lump-sum and early retirement plan distributions are reduced from 15% to 7.5% of the federal tax amount on these distributions. For tax years beginning after 2012, the additional Maine taxes on lump-sum and early retirement plan distributions are repealed. 36 MRSA § 5204. LD 1043, PL 2011, c. 380, Part N.

**Income tax return checkoffs.** The law does the following:

- Eliminates the checkoffs for contributions to political parties from the Maine income tax return for tax years beginning on or after January 1, 2012.
- Establishes the Maine Public Library Fund and related income tax checkoff to support free public libraries in the State.
- Requires the following minimum annual contribution amount for each checkoff in order for the checkoff to remain on individual income tax forms in subsequent years:
  - \$10,000 or more in calendar year 2012
  - \$13,000 or more in calendar year 2013
  - \$16,000 or more in calendar year 2014
  - \$19,000 or more in calendar year 2015
  - \$22,000 or more in calendar year 2016
  - \$25,000 or more for calendar years after 2016.
- Establishes a minimum contribution of \$5 or more for each checkoff.
- Removes statutory limits on the amount that may be deducted for administrative costs with respect to each checkoff and in its place requires MRS to determine annually the actual cost of administering each checkoff and to

deduct that amount from contributions received before reporting the remainder to the Treasurer of State for remittance to the designated organization or fund.

- Requires the Taxation Committee to review by April 1, 2017 data regarding contributions made through checkoffs and the costs to administer the checkoffs. The committee is authorized to submit a bill to the 128th Legislature to implement recommendations resulting from the review.

Effective August 30, 2012, unless otherwise indicated. 36 MRSA §§ 5283, 5283-A, 5284(2), 5284-A(2), 5285(2), 5285-A(2), 5288-A(1), 5289, 5290 & 5291, LD 1826, PL 2011, c. 685.

**Income tax relief.** With respect to tax years beginning after 2014, the law requires that individual income tax rates be reduced in any year there are sufficient funds in the Tax Relief Fund for Maine Residents to pay for the reduction in that year. September 1, 2014, and annually thereafter, the State Tax Assessor must determine whether a reduction in the rates can be made. Any reduction applies to tax years beginning on or after the following January 1. The rates are to be reduced until there is a single rate of 4%. LD 849, PL 2011, c. 692.

**Job Creation Through Educational Opportunity Program.** The law amends the Job Creation Through Educational Opportunity Program as follows. Changes that impact the calculation of the credit for educational opportunity apply to tax years beginning on or after January 1, 2013.

- Allows an individual who transfers to an accredited Maine community college, college or university after completing up to 30 credit hours of course work at a non-Maine accredited community college, college or university to be eligible for 50% of the credit for educational opportunity in the case of an associate degree and 75% of the credit in the case of a bachelor's degree.
- Allows an employer to claim the tax credit if a qualified employee meets all eligibility criteria except that the qualified employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university.
- Removes the requirement that loans eligible for the credit have a term of eight years or more.
- Requires that loans eligible for the credit be part of the qualifying individual's financial aid package and be entered into before July 1, 2023.
- Makes the tax credit refundable to program participants who obtain an associate or bachelor's degree in science, technology, engineering or mathematics. The credit is not refundable with respect to employers that make loan payments on behalf of qualified employees.

- Allows an individual deployed for military service to be eligible for the tax credit as long as all the other program qualifications are met.
- Requires all Maine community colleges, colleges and universities to report to the Department of Education by February 1, 2021 on efforts to promote and enroll individuals in the Job Creation Through Educational Opportunity Program and to train admissions and financial aid staff about the program. DOE must, by March 1, 2021, report its findings and recommendations regarding the program to the Education and Cultural Affairs Committee and the Taxation Committee.
- Requires MRS to submit a report by March 1, 2021 to the Education and Cultural Affairs Committee and the Taxation Committee regarding the implementation of the credit for educational opportunity, including statistics on credits claimed.
- Requires the Taxation Committee to review the credit for educational opportunity by June 1, 2021. The committee is required to consider information provided by MRS and DOE to determine whether the credit should be retained, modified or repealed.

36 MRSA §§ 199-C(3) & 5217-D, LD 835, PL 2011, c. 665.

**Seed capital investment tax credit – enacted in 2011.** The credit rate is increased from 40% to 60% of eligible investments and applies that rate across the state rather than basing it on unemployment rates. The limitation requiring that collective investment result in less than 50% ownership in an investee business is changed. The 50% ownership limitation now applies to each investor rather than to all investors collectively. Private venture capital funds may now claim the credit and the credit is refundable to those entities only. The refundable portion of the credit is excluded from Maine income. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(HH) & 5216-B. LD 22, PL 2011, c. 454.

**Maine fishery infrastructure investment tax credit program.** The law replaces the prohibition under prior law (whereby the Maine fishery infrastructure investment tax credit was not allowed if the taxpayer claimed a deduction for the investment under another provision of Maine income tax law) with an income tax addition modification for individuals and corporations to increase Maine taxable income by the amount of any deduction claimed for expenses also used to calculate the Maine fishery infrastructure investment tax credit. The change applies retroactively to the effective date of the enactment of the Maine fishery infrastructure investment tax credit (June 20, 2011). In addition, the law authorizes MRS to disclose information to the Department of Inland Fisheries and Wildlife necessary to administer the Maine fishery infrastructure investment tax credit. Retroactively effective June 20, 2011. 36 MRSA §§ 191(2)(WW), 5122(1)(GG) & 5200-A(1)(Z), LD 1749, PL 2011, c. 644.

**New Markets Tax Credit – enacted in 2011.** A person making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the

investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 5219-GG. LD 1043, PL 2011, c. 380, Part Q.

**New markets capital investment credit.** The definition of "qualified active low-income community business" within the laws governing the new markets capital investment credit is expanded to allow a business to qualify for the credit if it meets specific requirements for activity within municipalities where the average annual unemployment rate is higher than the state average unemployment rate. Activity within a municipality will be measured as follows: at least 50% of total gross income is derived by the entity within the municipality, a substantial portion of the use of the entity's tangible property is within the municipality, or a substantial portion of the services performed by the entity is within the municipality. Effective August 30, 2012. 36 MRSA § 5219-GG, LD 323 PL 2011, c. 563.

**New markets capital investment credit.** This law amends the Maine new markets capital investment credit to increase the maximum amount of capital or equity investment in, or loan to, a qualified active low-income community business from \$10,000,000 to \$40,000,000 if the qualified low-income community business is a manufacturing or value-added production enterprise that projects to create or retain more than 200 jobs. Effective August 30, 2012. 36 MRSA § 5219-HH(1)(J), LD 1746, PL 2011, c. 657, Part P.

**New markets capital investment credit.** The law provides that any income recognized on a taxpayer's federal tax return from the new markets capital investment credit is subtracted from federal adjusted gross income for state income tax purposes. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(KK) & 5200-A(2)(X), LD 1749, PL 2011, c. 644.

**Dental Care Access Credit – enacted in 2011.** The Maine Dental Care Access Credit is amended to extend the credit through December 31, 2020, increase from 5 to 6 the number of dentists that may be certified each year 2012 through 2015 and reduces the maximum credit for those certified after 2011 from \$15,000 to \$12,000. No dentists may be certified after 2015 and the credit is repealed December 31, 2020. 36 MRSA § 5219-DD. LD 164, PL 2011, c. 434.

#### **4) FIDUCIARY INCOME TAX**

**Tax Rate Schedules – enacted in 2011.** For tax years beginning on or after January 1, 2013, the existing progressive individual income tax rate schedules are changed from the current 2%, 4.5%, 7% and 8.5% rate brackets to two rate brackets of 6.5% and 7.95%. The Maine fiduciary income tax is based on the Maine individual income tax rate

schedule for single individuals. 36 MRSA §§ 5111 & 5160. LD 1043, PL 2011, c. 380, Part N.

**Alternative Minimum Tax – enacted in 2011.** For tax years beginning on or after January 1, 2012, the Maine alternative minimum tax for non-corporate taxpayers is repealed. The minimum tax credit remains in effect for unused credit amounts. 36 MRSA § 5203-C. LD 1043, PL 2011, c. 380, Part N.

**Tax Additions – Lump-sum and early retirement plan distributions – enacted in 2011.** For tax years beginning in 2012, the Maine additional taxes on lump-sum and early retirement plan distributions are reduced from 15% to 7.5% of the federal tax amount on these distributions. For tax years beginning after 2012, the additional Maine taxes on lump-sum and early retirement plan distributions are repealed. 36 MRSA § 5204. LD 1043, PL 2011, c. 380, Part N.

**Job Creation Through Educational Opportunity Program.** The law amends the Job Creation Through Educational Opportunity Program as follows. Changes that impact the calculation of the credit for educational opportunity apply to tax years beginning on or after January 1, 2013.

- Allows an individual who transfers to an accredited Maine community college, college or university after completing up to 30 credit hours of course work at a non-Maine accredited community college, college or university to be eligible for 50% of the credit for educational opportunity in the case of an associate degree and 75% of the credit in the case of a bachelor's degree.
- Allows an employer to claim the tax credit if a qualified employee meets all eligibility criteria except that the qualified employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university.
- Removes the requirement that loans eligible for the credit have a term of eight years or more.
- Requires that loans eligible for the credit be part of the qualifying individual's financial aid package and be entered into before July 1, 2023.
- Makes the tax credit refundable to program participants who obtain an associate or bachelor's degree in science, technology, engineering or mathematics. The credit is not refundable with respect to employers that make loan payments on behalf of qualified employees.
- Allows an individual deployed for military service to be eligible for the tax credit as long as all the other program qualifications are met.
- Requires all Maine community colleges, colleges and universities to report to the Department of Education by February 1, 2021 on efforts to promote and



enroll individuals in the Job Creation Through Educational Opportunity Program and to train admissions and financial aid staff about the program. DOE must, by March 1, 2021, report its findings and recommendations regarding the program to the Education and Cultural Affairs Committee and the Taxation Committee.

- Requires MRS to submit a report by March 1, 2021 to the Education and Cultural Affairs Committee and the Taxation Committee regarding the implementation of the credit for educational opportunity, including statistics on credits claimed.
- Requires the Taxation Committee to review the credit for educational opportunity by June 1, 2021. The committee is required to consider information provided by MRS and DOE to determine whether the credit should be retained, modified or repealed.

36 MRSA §§ 199-C(3) & 5217-D, LD 835, PL 2011, c. 665.

**Seed capital investment tax credit – enacted in 2011.** The credit rate is increased from 40% to 60% of eligible investments and applies that rate across the state rather than basing it on unemployment rates. The limitation requiring that collective investment result in less than 50% ownership in an investee business is changed. The 50% ownership limitation now applies to each investor rather than to all investors collectively. Private venture capital funds may now claim the credit and the credit is refundable to those entities only. The refundable portion of the credit is excluded from Maine income. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(HH) & 5216-B. LD 22, PL 2011, c. 454.

**New Markets Tax Credit – enacted in 2011.** A person making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 5219-GG. LD 1043, PL 2011, c. 380, Part Q.

**New markets capital investment credit.** The definition of "qualified active low-income community business" within the laws governing the new markets capital investment credit is expanded to allow a business to qualify for the credit if it meets specific requirements for activity within municipalities where the average annual unemployment rate is higher than the state average unemployment rate. Activity within a municipality will be measured as follows: at least 50% of total gross income is derived by the entity within the municipality, a substantial portion of the use of the entity's tangible property is within the municipality, or a substantial portion of the services performed by the entity is within the municipality. Effective August 30, 2012. 36 MRSA § 5219-GG, LD 323 PL 2011, c. 563.

**New markets capital investment credit.** This law amends the Maine new markets capital investment credit to increase the maximum amount of capital or equity investment in, or loan to, a qualified active low-income community business from \$10,000,000 to \$40,000,000 if the qualified low-income community business is a manufacturing or value-added production enterprise that projects to create or retain more than 200 jobs. Effective August 30, 2012. 36 MRSA § 5219-HH(1)(J), LD 1746, PL 2011, c. 657, Part P.

**New markets capital investment credit.** The law provides that any income recognized on a taxpayer's federal tax return from the new markets capital investment credit is subtracted from federal adjusted gross income for state income tax purposes. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(KK) & 5200-A(2)(X), LD 1749, PL 2011, c. 644.

**Dental Care Access Credit – enacted in 2011.** The Maine Dental Care Access Credit is amended to extend the credit through December 31, 2020, increase from 5 to 6 the number of dentists that may be certified each year 2012 through 2015 and reduces the maximum credit for those certified after 2011 from \$15,000 to \$12,000. No dentists may be certified after 2015 and the credit is repealed December 31, 2020. 36 MRSA § 5219-DD. LD 164, PL 2011, c. 434.

## **5) ESTATE TAX**

**Estate Tax – enacted in 2011.** The new law provides that, with respect to the tax on estates of decedents dying after December 31, 2012, the exclusion amount increases from \$1,000,000 to \$2,000,000. Also beginning in 2013, a progressive rate structure applies: 8% on estate value of more than \$2,000,000 but less than or equal to \$5,000,000; 10% on estate value of more than \$5,000,000 but less than or equal to \$8,000,000; 12% on estate value of more than \$8,000,000. 36 MRSA chapters 575 & 577. LD 1043, PL 2011, c. 380, Part M.

## **6) CORPORATE INCOME TAX**

**Disaster assistance.** The law exempts from Maine income tax compensation and business income if the only presence in Maine during the taxable year is for the sole purpose of providing disaster relief. Applies to tax years beginning on or after January 1, 2013. 36 MRSA §§ 5102, 5142(8-B) & 5211(16-B), LD 1836, PL 2011, c. 622.

**Maine alternative minimum tax – refundable income tax credits.** The law provides that certain refundable tax credits will be applied to reduce the taxpayer's alternative minimum tax liability prior to calculation of the refundable amount. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5203-C(4)(A) & 5219-H(1), LD 1749, PL 2011, c. 644.

**Seed capital investment tax credit – enacted in 2011.** The credit rate is increased from 40% to 60% of eligible investments and applies that rate across the state rather than basing it on unemployment rates. The limitation requiring that collective investment result in less than 50% ownership in an investee business is changed. The 50% ownership limitation now applies to each investor rather than to all investors collectively. Private venture capital funds may now claim the credit and the credit is refundable to those entities only. The refundable portion of the credit is excluded from Maine income. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5200-A(2)(V) & 5216-B. LD 22, PL 2011, c. 454.

**New Markets Tax Credit – enacted in 2011.** A person making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 5219-GG. LD 1043, PL 2011, c. 380, Part Q.

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**New markets capital investment credit.** This law amends the Maine new markets capital investment credit to increase the maximum amount of capital or equity investment in, or loan to, a qualified active low-income community business from \$10,000,000 to \$40,000,000 if the qualified low-income community business is a manufacturing or value-added production enterprise that projects to create or retain more than 200 jobs. Effective August 30, 2012. 36 MRSA § 5219-HH(1)(J), LD 1746, PL 2011, c. 657, Part P.

**New markets capital investment credit.** The law provides that any income recognized on a taxpayer's federal tax return from the new markets capital investment credit is subtracted from federal adjusted gross income for state income tax purposes. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(KK) & 5200-A(2)(X), LD 1749, PL 2011, c. 644.

**Job Creation Through Educational Opportunity Program.** The law amends the Job Creation Through Educational Opportunity Program as follows. Changes that

impact the calculation of the credit for educational opportunity apply to tax years beginning on or after January 1, 2013.

- Allows an individual who transfers to an accredited Maine community college, college or university after completing up to 30 credit hours of course work at a non-Maine accredited community college, college or university to be eligible for 50% of the credit for educational opportunity in the case of an associate degree and 75% of the credit in the case of a bachelor's degree.
- Allows an employer to claim the tax credit if a qualified employee meets all eligibility criteria except that the qualified employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university.
- Removes the requirement that loans eligible for the credit have a term of eight years or more.
- Requires that loans eligible for the credit be part of the qualifying individual's financial aid package and be entered into before July 1, 2023.
- Makes the tax credit refundable to program participants who obtain an associate or bachelor's degree in science, technology, engineering or mathematics. The credit is not refundable with respect to employers that make loan payments on behalf of qualified employees.
- Allows an individual deployed for military service to be eligible for the tax credit as long as all the other program qualifications are met.
- Requires all Maine community colleges, colleges and universities to report to the Department of Education by February 1, 2021 on efforts to promote and enroll individuals in the Job Creation Through Educational Opportunity Program and to train admissions and financial aid staff about the program. DOE must, by March 1, 2021, report its findings and recommendations regarding the program to the Education and Cultural Affairs Committee and the Taxation Committee.
- Requires MRS to submit a report by March 1, 2021 to the Education and Cultural Affairs Committee and the Taxation Committee regarding the implementation of the credit for educational opportunity, including statistics on credits claimed.
- Requires the Taxation Committee to review the credit for educational opportunity by June 1, 2021. The committee is required to consider information provided by MRS and DOE to determine whether the credit should be retained, modified or repealed.

36 MRSA §§ 199-C(3) & 5217-D, LD 835, PL 2011, c. 665.

**Maine fishery infrastructure investment tax credit program.** The law replaces the prohibition under prior law (whereby the Maine fishery infrastructure investment tax credit was not allowed if the taxpayer claimed a deduction for the investment under another provision of Maine income tax law) with an income tax addition modification for individuals and corporations to increase Maine taxable income by the amount of any deduction claimed for expenses also used to calculate the Maine fishery infrastructure investment tax credit. The change applies retroactively to the effective date of the enactment of the Maine fishery infrastructure investment tax credit (June 20, 2011). In addition, the law authorizes MRS to disclose information to the Department of Inland Fisheries and Wildlife necessary to administer the Maine fishery infrastructure investment tax credit. Retroactively effective June 20, 2011. 36 MRSA §§ 191(2)(WW), 5122(1)(GG) & 5200-A(1)(Z), LD 1749, PL 2011, c. 644.

## **7) PASS-THROUGH ENTITIES**

**Pass-through entity filing requirements.** The law repeals the filing requirement of information returns by partnerships and S corporations. It also amends the definition of "taxpayer" to include pass-through entities in order to provide the State Tax Assessor the ability to audit a pass-through entity even if the entity does not have a Maine filing requirement. The ability to audit pass-through entities is especially needed in cases when the owners of an entity have a Maine filing obligation. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 111(7), 187-B, 5102(10), 5222(6), 5241 & 5245, LD 1903, PL 2011, c. 655, Part QQ.

## **8) INSURANCE PREMIUMS TAXES**

**Service contracts – enacted in 2011.** Beginning in 2012, provider fees on service contracts may be excluded from premiums subject to the insurance premiums tax. The Maine insurance premiums tax, however, does apply to premiums for reimbursement insurance policies. Compliance with the Service Contract Act is required on or after January 1, 2012. 24-A MRSA § 7103(8). LD 1507, PL 2011, c. 345.

**New Markets Tax Credit – enacted in 2011.** An insurance company making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 2531. LD 1043, PL 2011, c. 380, Part Q.

**New markets capital investment credit.** The definition of "qualified active low-income community business" within the laws governing the new markets capital investment credit is expanded to allow a business to qualify for the credit if it meets

specific requirements for activity within municipalities where the average annual unemployment rate is higher than the state average unemployment rate. Activity within a municipality will be measured as follows: at least 50% of total gross income is derived by the entity within the municipality, a substantial portion of the use of the entity's tangible property is within the municipality, or a substantial portion of the services performed by the entity is within the municipality. Effective August 30, 2012. 36 MRSA § 5219-GG, LD 323 PL 2011, c. 563.

**New markets capital investment credit.** This law amends the Maine new markets capital investment credit to increase the maximum amount of capital or equity investment in, or loan to, a qualified active low-income community business from \$10,000,000 to \$40,000,000 if the qualified low-income community business is a manufacturing or value-added production enterprise that projects to create or retain more than 200 jobs. Effective August 30, 2012. 36 MRSA § 5219-HH(1)(J), LD 1746, PL 2011, c. 657, Part P.

**New markets capital investment credit.** The law provides that any income recognized on a taxpayer's federal tax return from the new markets capital investment credit is subtracted from federal adjusted gross income for state income tax purposes. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(KK) & 5200-A(2)(X), LD 1749, PL 2011, c. 644.

## **9) FRANCHISE TAX**

**New Markets Tax Credit – enacted in 2011.** An insurance company making a qualified equity investment in a low-income community business is allowed a credit equal to 39% of the investment. The credit is taken over seven years, with 0% allowed in the first two years, 7% allowed in year three and 8% allowed in each of years four through seven. The credit is fully refundable, or the taxpayer may elect to carry any unused portion of the credit forward for up to 20 years. Certain recapture provisions apply. Applies to tax years beginning on or after January 1, 2012. 36 MRSA § 2531. LD 1043, PL 2011, c. 380, Part Q.

**New markets capital investment credit.** The definition of "qualified active low-income community business" within the laws governing the new markets capital investment credit is expanded to allow a business to qualify for the credit if it meets specific requirements for activity within municipalities where the average annual unemployment rate is higher than the state average unemployment rate. Activity within a municipality will be measured as follows: at least 50% of total gross income is derived by the entity within the municipality, a substantial portion of the use of the entity's tangible property is within the municipality, or a substantial portion of the services performed by the entity is within the municipality. Effective August 30, 2012. 36 MRSA § 5219-GG, LD 323 PL 2011, c. 563.

**New markets capital investment credit.** This law amends the Maine new markets capital investment credit to increase the maximum amount of capital or equity

investment in, or loan to, a qualified active low-income community business from \$10,000,000 to \$40,000,000 if the qualified low-income community business is a manufacturing or value-added production enterprise that projects to create or retain more than 200 jobs. Effective August 30, 2012. 36 MRSA § 5219-HH(1)(J), LD 1746, PL 2011, c. 657, Part P.

**New markets capital investment credit.** The law provides that any income recognized on a taxpayer's federal tax return from the new markets capital investment credit is subtracted from federal adjusted gross income for state income tax purposes. Applies to tax years beginning on or after January 1, 2012. 36 MRSA §§ 5122(2)(KK) & 5200-A(2)(X), LD 1749, PL 2011, c. 644.

**Job Creation Through Educational Opportunity Program.** The law amends the Job Creation Through Educational Opportunity Program as follows. Changes that impact the calculation of the credit for educational opportunity apply to tax years beginning on or after January 1, 2013.

- Allows an individual who transfers to an accredited Maine community college, college or university after completing up to 30 credit hours of course work at a non-Maine accredited community college, college or university to be eligible for 50% of the credit for educational opportunity in the case of an associate degree and 75% of the credit in the case of a bachelor's degree.
- Allows an employer to claim the tax credit if a qualified employee meets all eligibility criteria except that the qualified employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university.
- Removes the requirement that loans eligible for the credit have a term of eight years or more.
- Requires that loans eligible for the credit be part of the qualifying individual's financial aid package and be entered into before July 1, 2023.
- Makes the tax credit refundable to program participants who obtain an associate or bachelor's degree in science, technology, engineering or mathematics. The credit is not refundable with respect to employers that make loan payments on behalf of qualified employees.
- Allows an individual deployed for military service to be eligible for the tax credit as long as all the other program qualifications are met.
- Requires all Maine community colleges, colleges and universities to report to the Department of Education by February 1, 2021 on efforts to promote and enroll individuals in the Job Creation Through Educational Opportunity Program and to train admissions and financial aid staff about the program. DOE must, by

March 1, 2021, report its findings and recommendations regarding the program to the Education and Cultural Affairs Committee and the Taxation Committee.

- Requires MRS to submit a report by March 1, 2021 to the Education and Cultural Affairs Committee and the Taxation Committee regarding the implementation of the credit for educational opportunity, including statistics on credits claimed.
- Requires the Taxation Committee to review the credit for educational opportunity by June 1, 2021. The committee is required to consider information provided by MRS and DOE to determine whether the credit should be retained, modified or repealed.

36 MRSA §§ 199-C(3) & 5217-D, LD 835, PL 2011, c. 665.

## **10) CIRCUITBREAKER PROGRAM**

**Circuitbreaker program definition of homestead; proof of rent paid.** The law clarifies that a person occupying a homestead under a legally binding agreement may transfer the property but continue to reside in it as a home until some specified future event and be eligible to apply for benefits under the Circuitbreaker Program. It requires the State Tax Assessor to adopt routine technical rules to require proof of rent paid when the application for benefits under the Circuitbreaker Program is based on rent paid of \$9,000 or more for the year. Applies to applications filed on or after August 1, 2012. 36 MRSA § 6201(5), LD 1680, PL 2011, c. 513.

**Circuitbreaker program property taxes.** The law provides that, for purposes of calculating eligibility at the municipal level for property tax abatement for reasons of poverty or infirmity, municipal officers may set off or otherwise treat as available benefits provided under the Circuitbreaker Program when determining a person's ability to contribute to the public charges. It prohibits a claimant under the Circuitbreaker Program from seeking a refund on property taxes that were abated by a municipality based upon poverty or infirmity by excluding from the definition of "property taxes accrued" any taxes abated in the year for which the claimant is seeking relief. Effective August 30, 2012. 36 MRSA §§ 841(2) & 6201(10), LD 1693, PL 2011, c. 552.

**Reimbursement limitation – enacted in 2011.** The Maine Residents Property Tax and Rent Refund "Circuit Breaker" program benefit is limited to 80% of the final benefit calculation for program years beginning August 1, 2011 and August 1, 2012. The maximum refund is limited to \$1,600. 36 MRSA § 6207(1)(B). LD 1043, PL 2011, c. 380, Part P.

## **11) SALES/USE TAX**



**Sales tax policy change procedure.** The law requires MRS to consult with the Office of the Attorney General before implementing a significant change in policy, practice or interpretation of the sales and use tax law that would result in additional revenue, with prior notification also provided to the Legislature's Taxation Committee in certain circumstances. MRS is to report to the Taxation Committee annually by January 15th. 36 MRSA § 194-A, LD 590, PL 2011, c. 503.

**Sales tax exemption for wood pellets and wood.** The law provides that until September 30, 2013, a purchase of 1,000 pounds or less of wood pellets or of any 100% compressed wood product is presumed to be a purchase for use in residential cooking or heating and is therefore exempt from sales tax; and that beginning October 1, 2013, a purchase of any amount of wood pellets is presumed to be a purchase for use in residential cooking or heating and is therefore exempt. Also, a purchase of less than one cord of wood is now presumed to be a purchase for use in residential cooking or heating and is therefore exempt. Effective May 21, 2012. 36 MRSA § 1760(9), LD 1610, PL 2011, c. 670.

**Sales tax exemption for residential electricity.** The law enacts a sales tax exemption for off-peak residential electricity used for space heating or water heating by means of an electric thermal storage device. Effective May 21, 2012. 36 MRSA § 1760(9-B), LD 1655, PL 2011, c. 673.

**Sales tax registration certificates.** The law provides in part that a retailer must make a copy of its sales tax registration certificate available to an authorized municipal official and removes the requirement that the certificate be conspicuously displayed. Effective August 30, 2012. 36 MRSA § 1754-B(2), LD 1695, PL 2011, c. 535.

**Sales and use tax exemption for buses used as certain instrumentalities of interstate or foreign commerce.** The law expands Maine's sales and use tax exemption for certain instrumentalities of interstate or foreign commerce to include a bus with a capacity of at least 47 passengers engaged in transporting within the state a bona fide payload of travelers on an interstate or foreign cruise that originates outside the state and terminates outside the state, as long as the transportation is provided pursuant to a contract between the interstate or foreign cruise provider and the person providing the transportation. Effective August 30, 2012. 36 MRSA § 1760(41)(B), LD 1735, PL 2011, c. 501.

**Sales tax exemption/refund for products used in commercial agricultural production.** The law expands the scope of the Maine Revised Statutes, Title 36, section 2013, which provides for the refund of sales tax on purchases of depreciable machinery and equipment used for commercial agricultural production and certain other purposes, to include items used in commercial wood harvesting and in the commercial production of crops, plants, trees, compost and livestock, which is intended to include greenhouse and nursery products. Applies to purchases made on or after July 1, 2013. 36 MRSA §§ 1760(7-B) & 2013, LD 1746, PL 2011, c. 657, Part N.

**Maine Use Tax Compliance Program.** The law establishes the 2012 Maine Use Tax Compliance Program to run from October 1, 2012 to November 30, 2012 to facilitate the discovery and recovery of unreported use tax. The program provides for the waiver of penalties if the tax and interest are paid during the program period, absolves participating taxpayers meeting the conditions of the program from further liability for use taxes incurred prior to January 1, 2012 and absolves such taxpayers from liability for criminal prosecution and civil penalties related to those taxes. Payment plans for payment of taxes after the expiration of the program period are allowed if approved by the State Tax Assessor. The last payment under a payment plan must be made no later than May 31, 2013. Effective August 30, 2012. 36 MRSA § chapter 914-D, LD 1746, PL 2011, c. 657, Part Q.

**Definition of automobile.** The law provides that the weight limitation for a pickup truck or van included in the definition of “automobile” in the sales and use tax law applies to the gross vehicle weight rating of the vehicle. Applies retroactively to September 28, 2011. 36 MRSA § 1752(1-B), LD 1749, PL 2011, c. 644.

**Registration of owners of space temporarily rented as retail space.** The law removes the requirement that persons who rent or lease temporary retail space must file monthly returns reporting those rentals and replaces it with a nontransferable tax registration certificate and record-keeping requirement. Effective August 30, 2012. 36 MRSA § 1754-A, LD 1749, PL 2011, c. 644.

**High-technology tax evasion.** The law prohibits the possession or transfer in this state of automated sales suppression devices, also known as “zappers”. LD 1764, PL 2011, c. 526.

**Prepaid wireless service fees.** The law establishes a methodology for the determination of the amount of fees imposed on prepaid wireless telecommunications service, and reallocates and amends the method of collection of the statewide prepaid wireless E-9-1-1 surcharge levied on prepaid wireless telecommunications service consumers. The seller is required to remit the fees and surcharges to the State Tax Assessor in the same manner as the sales tax; the assessor is required to remit the fees and surcharges to the Public Utilities Commission for disbursement by the commission to the various funds. Effective January 1, 2013. LD 1799, PL 2011, c. 600.

**Camper trailers and motor homes.** The law provides that camper trailers and motor homes are not subject to sales tax when purchased by a person engaged in the renting or leasing of those items, and that the rental of those items is subject to sales tax at the rate of 5%. Effective October 1, 2012. 36 MRSA §§ 1752(11)(B) & 1752(17-B), LD 1809, PL 2011, c. 684.

**Disaster assistance.** The law provides a use tax exemption for property brought into the state by an out-of-state business or individual during a declared state disaster or emergency for use in conducting activities directly related to disaster relief. Effective April 12, 2012. 36 MRSA §§ 1760(45), 5102, 5142(8-B) & 5211(16-B), LD 1836, PL 2011, c. 622.

**Sales tax exemption for positive airway pressure equipment and supplies.**

The law enacts a new sales and use tax exemption for positive airway pressure equipment used in respiratory ventilation and for supplies and repair and replacement parts for such equipment. Applies retroactively to sales occurring on or after January 1, 2012. 36 MRSA §§ 1752(8-C), 1752(11)(B) & 1760(94), LD 1903, PL 2011, c. 655, Part PP.

**Tax exemption – windjammers – enacted in 2011.** The law authorizes a sales tax refund or exemption certificate for purchases of parts and supplies used primarily and directly for the operation, repair or maintenance of a windjammer based in Maine used to carry cargo or passengers for a fee. Applies to purchases made on or after October 1, 2012. LD 59, PL 2011, c. 425.

## **12) CIGARETTE/TOBACCO TAXES**

**Product destroyed by distributors – enacted in 2011.** The law permits the State Tax Assessor to allow a credit for cigarettes and tobacco products that are returned to, and ultimately destroyed by, the distributor because the cigarettes or tobacco products have become unfit for use, sale or consumption. Under prior law, credit was only allowable if the cigarettes or tobacco products were returned to the manufacturer. Effective July 1, 2012. LD 617, PL 2011, c. 441.

## **13) MOTOR FUEL TAXES**

**Fuel tax.** The law clarifies the State Tax Assessor's responsibilities with regard to special fuel tax obligations reported or assessed under the International Fuel Tax Agreement and provides the statutory authority for the further delegation of those responsibilities to the Secretary of State, including the audit of International Fuel Tax Agreement tax returns and the administrative appeal of International Fuel Tax Agreement assessments. The law also clarifies that the International Fuel Tax Agreement governing documents referenced in the Maine special fuel tax law include amendments to those documents that have been adopted as of December 31, 2011. Effective August 30, 2012. 36 MRSA § 3209, LD 1749, PL 2011, c. 644.

**Indexing – enacted in 2011.** The law repeals the indexing of motor fuels tax rates on January 1, 2012. LD 1348, PL 2011, c. 392.

## **14) HOSPITAL TAX**

**Hospital assessment.** The law enacts a special Hospital Assessment for FY2012-13. The assessment is imposed on each hospital in the state and is equal to 0.39% of net operating revenue identified in the hospital's most recent audited financial statement for the hospital's fiscal year that ended during calendar year 2008. The assessment is

payable in two installments, the first due September 30, 2012 and the second due March 30, 2013. Revenues received from the assessment are to be credited to the General Fund. 36 MRSA § 2896, LD 1816, PL 2011, c. 477, Part II.

## **15) MAINE BOTTLE LAW**

**Initiators of deposit – wine containers – enacted in 2011.** Among other changes to the returnable bottle law, allows initiators of deposit for wine containers who sell no more than 100,000 gallons of wine or 500,000 wine containers per year to enter into a commingling agreement. The effect is reduced revenue to the state from unclaimed deposits. MRS is responsible for collecting these revenues. Effective July 1, 2012. LD 1324, PL 2011, c. 429.

## **16) PROPERTY TAX DIVISION**

**Vehicle excise tax exemption – military personnel – enacted in 2011.** The law allows municipalities to exempt from excise tax vehicles owned by residents of Maine who are on active military duty and who are either permanently stationed at a military or naval base outside of Maine or deployed for military service in the United States Armed Forces, including the National Guard and Reserves, for a period of more than 180 days. Effective January 1, 2012. LD 1385, PL 2011, c. 313.

**Telecommunications taxation reform – enacted in 2011.** The law replaces the telecommunications personal property tax with an excise tax on telecommunications businesses for the privilege of operating in Maine. The excise tax is equal to the just value of qualified telecommunications equipment taxed at a rate of 19.2 mills in fiscal year 2012. For fiscal year 2013 and subsequent years, the State Tax Assessor must apply the tax rate of the municipality or the unorganized territory in which the qualified telecommunications equipment is located to the just value of the equipment as adjusted by the municipality's or the unorganized territory's certified assessment ratio. The bill establishes procedures for the assessment, collection and appeal of the excise tax. LD 441, PL 2011, c. 430.

**Property tax abatements – Circuitbreaker program benefits.** The law provides that, for purposes of calculating eligibility at the municipal level for property tax abatement for reasons of poverty or infirmity, municipal officers may set off or otherwise treat as available benefits provided under the Circuitbreaker Program when determining a person's ability to contribute to the public charges. Effective August 30, 2012. 36 MRSA §§ 841(2) & 6201(10), LD 1693, PL 2011, c. 552.